

United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RETAILERS NATIONAL BANK, No C-03-4190 VRW  
Plaintiff, ORDER TO SHOW CAUSE  
v  
LISA HARDING,  
Defendant.

AND RELATED COUNTERCLAIM

In an order following the March 17, 2005, hearing in this matter, the court stated:

It appears that with respect to several counterdefendants the Hardings have named the wrong corporate entity. The parties shall, if possible, stipulate to the substitution of the correct entity. Such stipulations shall be filed with the court not later than April 7, 2005. In the event the parties are unable to stipulate to the substitution, the Hardings may file a motion to amend on or before April 14, 2005, to be heard on May 19, 2005, at 2:00 pm.

Doc #85 at 2:12-20.

It appears that the Hardings took advantage of the

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1 court's indulgence of their poor investigation of the  
2 counterdefendants' identities; on April 8, 2005, the court granted  
3 a stipulation to substitute Fleet Bank (RI), National Association  
4 for Fleet Financial Group, Inc. Doc #109.

5 But no other stipulation or motion to amend was filed,  
6 even though several disputes remain. In particular:

- 7 • Discover Financial Services, Inc is not a card issuer;  
8 Discover Bank is the card issuer. Doc #99.  
9 • MBNA Corporation is not a card issuer; MBNA America Bank,  
NA is the card issuer. Doc #127.  
10 • Providian Financial Corporation is not a card issuer;  
Providian National Bank is the card issuer. Doc #132.

12 As such, it would appear that the Hardings have no arbitration  
13 agreement with, nor used a credit card issued by the Discover, MBNA  
14 and Providian entities they have named.

15 While the foregoing may be a basis for a judgment on the  
16 merits in favor of the above entities, the court has not yet  
17 resolved whether it has jurisdiction in this case. The appropriate  
18 course at this stage would be a dismissal without prejudice.  
19 Accordingly, the Hardings are ORDERED TO SHOW CAUSE in writing by  
20 June 1, 2005, why Discover Financial Services, Inc; MBNA  
21 Corporation; and Providian Financial Corporation should not be  
22 dismissed without prejudice.

23 IT IS SO ORDERED.

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26 VAUGHN R WALKER  
27 United States District Chief Judge  
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